

Climate Assessment

Office of Legislative Oversight

Bill 35-23: County Minimum Wage – Tipped Employees

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 35-23 will likely have a minimal impact on the County’s contribution to addressing climate change as it could increase resilience for County households and individuals whose incomes are generated via tipped employment, however evidence is inconclusive.

BACKGROUND AND PURPOSE OF BILL 35-23

The Montgomery County minimum wage law distinguishes between employees and tipped employees. As of July 1, 2023, the minimum wage rate per hour for employees is \$16.70 for large employers, \$15.00 for mid-sized employers, and \$14.50 for small employers.^{1,2}

Over time, County law will phase out differences in minimum wage rates by employer size by raising the rate for mid-sized and small employers to the rate for large employers. The single minimum wage hourly rate will be adjusted each year by the annual average increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for Washington-Baltimore.³

Like most jurisdictions in the U.S., the County does not require employers to pay tipped employees the full minimum wage *before tips*. County law defines “tipped employees” as employees who are engaged in an occupation in which they customarily and regularly receive more than \$30 each month in tips; have been informed by their employers about the provisions of this section; and have kept all tips they received.⁴

County law grants employers of these workers “tip credits.”⁵ Tip credits “allow employers to pay workers a guaranteed hourly wage, often referred to as the [tipped minimum wage], which is less than the statutory minimum wage as long as tips bring the worker up to the minimum wage; if tips leave the employee short of the minimum wage, employers have to make up the difference.”⁶

In the County, employers must pay tipped employees a tipped minimum wage of at least \$4.00 per hour. This amount plus tips must equal (at least) the minimum wage hourly rate. Thus, the current maximum tip credits are presented in Table 1.

Table 1. Current Maximum Tip Credits in the County

Employer Size	Tipped Minimum Wage Rate	Maximum Tip Credits	Minimum Wage Rates
Large Employer	\$4	\$12.7	\$16.7
Mid-Sized Employer	\$4	\$11.0	\$15.0
Small Employer	\$4	\$10.5	\$14.5

The purpose of Bill 35-23 is to phase out the tip credit by July 1, 2028. It would do so by increasing the tipped minimum wage rate along the following schedule:

- \$4.00 per hour, until July 1, 2024;
- \$6.00 per hour, effective July 1, 2024 until July 1, 2025;
- \$8.00 per hour, effective July 1, 2025 until July 1, 2026;
- \$10.00 per hour, effective July 1, 2026 until July 1, 2027; and
- \$12.00 per hour, effective July 1, 2027 until July 1, 2028.

By July 1, 2028, there would be a single minimum wage rate for employees and tipped employees in the County.⁷

ANTICIPATED IMPACTS

Raising minimum wages can increase community resilience as individuals and households who experience an increase in income are more resilient and can better withstand shocks, such as extreme weather events.¹ Tipped employees are often paid “subminimum wage” and while it is assumed that tips will boost their earnings to at or above minimum wage, it is not guaranteed.² Increasing the subminimum wage can provide stable, steady income for tipped employees and increase their economic resilience which in turn, increases their resilience to shocks like extreme weather events.³

Evidence on the results of raising the subminimum wage for tipped employees is mixed. There is research that indicates that raising the subminimum wage will stabilize and increase income for some tipped employees, while other research indicates that it could reduce overall employment in the restaurant industry, due to increased personnel costs.⁴

As of the first quarter in 2023, there are 38,292 employees (3.6% of the County’s population) in the Leisure and Hospitality sector in Montgomery County, where many employees are tipped employees.⁵

As the bill proposes a gradual increase in the tip credit for tipped employees, OLO anticipates Bill 35-23 will have a minimal impact on the County’s contribution to addressing climate change, as it could increase resilience for County households and individuals whose incomes are generated via tipped employment; however evidence is inconclusive.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.⁶ OLO does not offer recommendations or amendments as Bill 35-23 is likely to have a minimal impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ ["Measuring Community Resilience and Its Determinants: Relocated Vulnerable Community in Western China", International Journal of Environmental Research and Public Health, Volume 20, 2023.](#); ["The Geographies of Community Disaster Resilience", Global Environmental Change, Volume 29, 2014.](#); ["A \\$15 minimum wage would help millions of struggling households in small and mid-sized cities achieve self-sufficiency", Brookings, 2021.](#)

² ["Subminimum Wage Program: DOL Could Do More to Ensure Timely Oversight", U.S. Government Accountability Office, 2023.](#)

³ ["The Geographies of Community Disaster Resilience", Global Environmental Change, Volume 29, 2014.](#)

⁴ ["The Effect of the Tipped Minimum Wage on Employees in the U.S. Restaurant Industry", Southern Economic Journal, Volume 80, 2014.](#); ["Ending the Tipped Minimum Wage Will Reduce Poverty and Inequality", Center for American Progress, 2021.](#) ; ["The tipping](#)

[point: could increasing the subminimum wage reduce poverty-related antenatal stressors in U.S. women?", Annals of Epidemiology, Volume 45, 2020.](#) ; ["Understanding the Implications of Raising the Minimum Wage in the District of Columbia", Urban Institute, 2014.](#)

⁵["Twenty-Three Years and Still Waiting for Change: Why It's Time to Give Tipped Workers the Regular Minimum Wage", Economic Policy Institute, 2014.](#); [QCEW State and County Map Application: Maryland, US: 12 month percent change in employment, Total, All Industries Total Covered Mar 2022-Mar 2023 \(p\) : U.S. Bureau of Labor Statistics, Accessed 10/2/23.](#)

⁶ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022